VIII. Trade Enforcement Activities

Enforcing our Trade Agreements

USTR's Office of Monitoring and Enforcement coordinates the agency's active monitoring of foreign government compliance with trade agreements and pursues enforcement actions, using dispute settlement procedures and applying the full range of U.S. trade laws when necessary. Vigorous enforcement enhances our ability to get the maximum benefit from our trade agreements, ensures that we can continue to open markets, and builds confidence in the trading system. These enforcement activities are complemented by the work of the Department of Commerce's Trade Compliance Center, which ensures that U.S. industries are benefitting from market-opening trade agreements.

The Office of Monitoring and Enforcement, which is responsible for litigating such disputes on behalf of the United States and disseminating information about dispute settlement to the public, has invoked formal procedures under the new World Trade Organization (WTO) dispute settlement mechanism in 42 cases since 1995.So far the United States has prevailed on 19 of the 21 complaints that the WTO has acted on or that have been settled on terms favorable to the United States (winning 9 in panel proceedings and settling 10 others). These cases cover a number of WTO agreements -- involving rules on trade in goods, trade in services, and intellectual property protection -- and affect a wide range of sectors of the U.S. economy.

USTR's Office of Monitoring and Enforcement also works to ensure the most effective use of U.S. trade laws to complement its litigation strategy and to address problems that are outside the scope of the WTO and NAFTA. USTR has effectively applied Section 301 of the Trade Act of 1974 to address unfair foreign government measures, "Special 301" for intellectual property rights (IPR) enforcement, "Super 301" for dealing with barriers that affect U.S. exports with the greatest potential for growth, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems and Title VII of the 1988 Act to address problems in foreign government procurement.

The renewal of Super 301 and Title VII in 1999 continues the Clinton Administration's long-standing commitment to opening markets multilaterally where possible and bilaterally where necessary. While the United States is creating opportunities to open markets multilaterally through the WTO, APEC, and the FTAA, the Administration also can use all of these trade laws to complement and reinforce its multilateral efforts.

WTO Dispute Settlement

In 1998, the WTO dispute settlement procedures continued to yield positive results for the United States. In addition to having the WTO Appellate Body uphold. U.S. challenges to the EC's banana regime and hormone ban, to India's failure to implement a patent "mailbox" mechanism, and to Argentina's improper duties on textile, apparel and footwear items, the United States prevailed in three

other cases that were argued before WTO dispute settlement panels in 1998. Of the three favorable rulings, one was subsequently affirmed by the WTO Appellate Body, one was not appealed, and one is presently undergoing appeal. These cases, which include successful challenges to Indonesia's discriminatory "national car" program, have demonstrated the utility of the dispute settlement process in opening foreign markets and securing other countries' compliance with their WTO obligations.

The United States has also been able to obtain satisfactory outcomes in a number of other cases without having to resort to formal panel proceedings. For instance, in March 1998 the United States reached an agreement with the Philippines regarding its tariff-rate quotas for frozen pork and poultry. Similarly, in an agreement reached with Sweden, the Swedish government finally agreed to implement its WTO obligation of providing provisional relief in domestic civil IPR enforcement proceedings.

In addition to these significant accomplishments, the United States also brought 8 new complaints to WTO dispute settlement in 1998, covering a broad range of sectors and various WTO Agreements. Among these new cases are challenges to Mexico's antidumping investigation of imported high-fructose corn syrup and illegal income tax subsidies provided by various EU member countries.

These and other enforcement activities are explained in more detail in the following and other sections of this Report. In particular, see the description of the activities of the WTO Dispute Settlement Body in Chapter IV.

Other Monitoring and Enforcement Activities

Subsidies Enforcement

The WTO Agreement on Subsidies and Countervailing Measures ("Subsidies Agreement") establishes multilateral disciplines on subsidies. Among its various disciplines, the Subsidies Agreement provides remedies for subsidies affecting competition not only domestically, but also in the subsidizing government's market and in third country markets. Previously, the U.S. countervailing duty law was the only practical mechanism for U.S. companies to address subsidized foreign competition. However, the countervailing duty law focuses exclusively on the effects of foreign subsidized competition in the United States. Although the procedures and remedies are different, the multilateral remedies of the Subsidies Agreement provide an alternative tool to address distortive foreign subsidies that affect U.S. businesses in an increasingly global market place.

Section 281 of the Uruguay Round Agreements Act of 1994 ("URAA") sets out the responsibilities of USTR and the Department of Commerce ("Commerce") in enforcing the United States' rights in the WTO under the Subsidies Agreement. USTR coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters, represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures, and leads the interagency team on matters of policy. The role of Commerce's Import Administration is to enforce the countervailing duty law and, in accordance with responsibilities assigned by the Congress in the URAA, to spearhead the subsidies enforcement activities of the United States with respect to the disciplines embodied in the Subsidies Agreement. Import Administration's Subsidies Enforcement Office (SEO) is the specific office charged with carrying out these duties.

The primary mandate of the SEO is to examine subsidy complaints and concerns raised by U.S. exporting companies and to monitor foreign subsidy practices to determine whether they are impeding U.S. exports to foreign markets and are inconsistent with the Subsidies Agreement. Once sufficient, relevant information about a subsidy practice has been gathered to permit the matter to be reliably evaluated, USTR and Commerce will confer with an interagency team to determine the most effective way to proceed. It is frequently advantageous to pursue resolution of these problems through a combination of informal and formal contacts, including, where warranted, dispute settlement action in the WTO. Remedies for violations of the Subsidies Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program.

Of critical importance throughout 1998 were the concerns voiced by a number of major U.S. industries, including steel, autos, paper, semiconductors and chemicals, that the economic crisis in Asia would lead to a surge of subsidized and unfairly traded imports into the United States. These industries were also concerned that funds from the International Monetary Fund (IMF) stabilization programs would be used to subsidize producers and exporters in the recipient countries, *i.e.*, Indonesia, Korea and Thailand. In an effort to address these concerns, the SEO established two monitoring programs -- (1) a subsidies monitoring program to ensure that exports to the United States were not unfairly increased through export or production-related subsidy programs and (2) an import monitoring program to alert the Administration to potential import surges and falling prices. When relevant information is detected in either monitoring program, Commerce works closely with USTR and other interested federal agencies to evaluate whether there have been infractions of any U.S. trade law or WTO obligation and to determine potential responses, including bilateral actions or actions to be taken under U.S. trade laws.

More generally, the SEO also maintains an electronic database on foreign subsidies drawn from the subsidies information which Commerce has developed through years of conducting countervailing duty investigations. This database is now accessible through the Internet, at "www.ita.doc.gov/import_admin/ records/esel". By providing this information in a centralized location, the U.S. trading community has improved access to information about the remedies available under the Subsidies Agreement and much of the information that is needed to develop a countervailing duty case or a WTO subsidies complaint.

Monitoring Foreign Antidumping and Countervailing Duty Actions

The WTO Agreement on Implementation of Article VI (Antidumping Agreement) and the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) permit Members to impose antidumping or countervailing duties to offset injurious dumping or subsidization of products exported from one Member country to another. The United States carefully monitors antidumping and countervailing duty proceedings initiated against U.S. exporters to ensure that foreign antidumping and countervailing duty actions are administered fairly and in full compliance with the WTO Agreements.

To this end, the Department of Commerce maintains a list of foreign antidumping and countervailing duty actions involving U.S. exporters. The list is publicly available and will soon be accessible in the electronic library on the Department of Commerce's Import Administration Internet web site at: http://www.ita.doc.gov/import_admin/records. The list provides information collected from U.S. embassies worldwide, enabling U.S. companies and U.S. government agencies to monitor other Members' administration of antidumping and countervailing duty actions involving U.S. companies. Over the past year, a WTO dispute

settlement panel was established at the request of the United States to review Mexico's final action imposing antidumping duties on U.S. exports of high fructose corn syrup. The U.S. request for a panel in this dispute followed consultations that the United States had with Mexico in June 1998. U.S. officials also met with U.S. exporters and association representatives of live cattle, fresh and frozen beef, live swine and bond paper to discuss Mexico's antidumping investigations of these products. Further, the U.S. continues to examine carefully Mexico's antidumping actions against U.S. steel companies. The United States also has actively been monitoring the antidumping investigations of other countries. In October 1998, the United States raised Argentina's antidumping investigation on imports of U.S. fiber optic cables at the meeting of the WTO Committee on Antidumping Practices. In addition, U.S. officials undertook bilateral discussions with the European Commission regarding the EU antidumping investigations on imports of U.S. polysulphide polymers and large aluminum electrolytic capacitors. The United States also continues to monitor closely the first antidumping investigation ever initiated by the People's Republic of China, which involves exports of U.S. newsprint. A final determination in that investigation is expected shortly.

Twice a year, WTO Members notify the WTO of all antidumping and countervailing duty actions they have taken during the preceding six-month period. The actions are identified in semi-annual reports submitted for discussion in meetings of the relevant WTO committees. Members also notify their preliminary and final determinations to the WTO on a semi-annual basis. Finally, Members are required to notify the WTO of changes in their antidumping and countervailing duty laws and regulations. These notifications are maintained in hard copy by USTR and Import Administration, and are made available to interested parties and others who wish to be apprised of the specific details of foreign antidumping or countervailing duty proceedings, or the laws and regulations governing their administration. The documents are also accessible through the USTR and Import Administration web-site "links" to the WTO's web cite.

U.S. Trade Law

Section 301

Section 301 of the Trade Act of 1974, as amended (the Trade Act), is the principal U.S. statute for addressing foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements and may also be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. For example, Section 301 may be used to obtain increased foreign market access for U.S. goods and services, to provide more equitable conditions for U.S. investment abroad, and to obtain more effective protection worldwide for U.S. intellectual property.

The USTR has initiated 118 investigations pursuant to Section 301 since the statute was first enacted in 1974. Since the beginning of the Clinton Administration, the USTR has initiated twenty-eight Section 301 investigations.

In 1998, the USTR initiated one investigation in response to a petition concerning Mexico's denial of fair and equitable market opportunities for U.S. producers of High Fructose Corn Syrup (HFCS) and one investigation at the USTR's own initiative concerning the intellectual property laws and practices of the government of Paraguay. Also in 1998, the USTR terminated: one investigation concerning trade and investment in the Brazilian auto sector following Brazil's commitment to implement its WTO obligations; two investigations concerning Korea's barriers to auto imports and

Paraguay's intellectual property laws and practices on the basis of bilateral agreements; and one investigation on Honduras' protection of intellectual property on the basis of Honduras' progress in protecting intellectual property rights. Furthermore, one petition was withdrawn before the USTR acted on it.

Operation of the Statute

The Section 301 provisions of the Trade Act provide a domestic procedure whereby interested persons may petition the USTR to investigate a foreign government policy or practice and take action. The USTR may also self-initiate an investigation. In each investigation the USTR must seek consultations with the foreign government whose acts, policies, or practices are under investigation. If the consultations do not result in a settlement and the investigation involves a trade agreement, section 303 of the Trade Act requires the USTR to use the dispute settlement procedures that are available under the agreement.

If the matter is not resolved by the conclusion of the investigation, section 304 of the Trade Act requires the USTR to determine whether the practices in question deny U.S. rights under a trade agreement or whether they are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If the practices are determined to violate a trade agreement or to be unjustifiable, the USTR must take action. If the practices are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, the USTR must determine whether action is appropriate and, if so, what action to take. The time period for making these determinations varies according to the type of practices alleged. Investigations of alleged violations of trade agreements with dispute settlement procedures must be concluded within the earlier of 18 months after initiation or thirty days after the conclusion of dispute settlement proceedings, whereas investigations of alleged unreasonable, discriminatory or unjustifiable practices (other than the failure to provide adequate and effective protection of intellectual property rights) must be decided within 12 months.

The range of actions that may be taken under Section 301 is broad and encompasses any action that is within the power of the President with respect to trade in goods or services or with respect to any other area of pertinent relations with a foreign country. Specifically, the USTR may (1) suspend trade agreement concessions, (2) impose duties or other import restrictions, (3) impose fees or restrictions on services, (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States, and (5) restrict service sector authorizations.

After a Section 301 investigation is concluded, the USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply with an agreement or the USTR considers that the country fails to implement a WTO dispute panel recommendation, the USTR must determine what further action to take under Section 301.

The following Section 301 investigations were conducted during 1998. (For those investigations involving resort to WTO dispute settlement procedures, see the section on disputes in Chapter IV for further information).

Mexican Practices Affecting High Fructose Corn Syrup (HFCS) (301-118)

On May 15, 1998, the USTR initiated an investigation in response to a Section 301 petition filed by the Corn Refiners Association, Inc. with respect to certain acts, policies and practices of the Government of Mexico that affect access to the Mexican market for HFCS.

In addition on October 8, 1998 the USTR

requested a panel regarding Mexico's actions. Presently, this dispute is pending before a panel.

Intellectual Property Laws and Practices of the Government of Paraguay (301-117)

On February 17, 1998, the USTR self-initiated an investigation with respect to certain acts, policies and practices of the Government of Paraguay that deny adequate and effective protection of intellectual property rights. The U.S. and Paraguay signed a Memorandum of Understanding (MOU) on November 17, 1998, in which the Government of Paraguay committed to take a number of near-term and longer-term actions to address the practices that were the subject of this investigation. Due to the signing by Paraguay of the MOU, the USTR determined not to take further action and will only continue to monitor Paraguay's implementation of the MOU.

In addition, there were major developments in the following investigations during 1998 following the issuances of last year's Annual Report:

Honduran Protection of Intellectual Property Rights (301-116)

In May 1997, the Trade Policy Staff Committee (TPSC) determined that the Government of Honduras had failed to provide adequate and effective means under its laws for foreign nationals to secure, exercise and enforce exclusive rights in intellectual property. This determination was due to the failure of the Honduran Government to take action against continued and blatant copyright piracy. The TPSC recommended a partial suspension of the duty-free treatment accorded Honduras under the Generalized System of Preferences (GSP) and Caribbean Basin Initiative (CBI) programs. In light of the foregoing, on October 31, 1997, the USTR self-initiated an investigation with regard to acts, policies and practices of the Government of Honduras with respect to the protection of intellectual property rights and proposed to determine that the acts, policies and practices are unreasonable and that the appropriate response should be a partial suspension of tariff preferences.

On March 16, 1998, the USTR determined that the failure by the Government of Honduras to provide adequate and effective protection of intellectual property rights was unreasonable and burdened or restricted U.S. commerce and that the appropriate action was to suspend preferential treatment accorded under the GSP and CBI programs to certain products of Honduras. In light of the Government of Honduras measures to combat television piracy and to protect intellectual property rights of the U.S., the USTR terminated its investigation on June 30, 1998. The USTR will continue to monitor Honduras' compliance in protecting intellectual property rights.

Korean Barriers to Motor Vehicles (301-115)

On October 20, 1997, the USTR initiated an investigation with respect to certain acts, policies and practices of the Government of the Republic of Korea that pose barriers to imports of U.S. autos into the Korean market. See section on Asia and the Pacific - Korea in Chapter VII and the section on Super 301 below for further information.

Canadian Export Subsidies and Market Access for Dairy Products (301-113)

On September 5, 1997, the National Milk Producers Federation, the U.S. Dairy Export Council, and the International Dairy Foods Association filed a petition alleging that certain Canadian export subsidies, along with Canada's failure to implement a tariff rate quota (TRQ) for

fluid milk, constitute acts, policies, and practices that violate, are inconsistent with, or otherwise deny benefits to the United States under the Uruguay Round Agreement on Agriculture and the GATT 1994. On October 8, 1997, the USTR initiated formal WTO consultations and on October 11, 1997, initiated an investigation of the Canadian practices under Section 301of the Trade Act of 1974. Following formal consultations on November 19, 1997, the United States requested the formation of a WTO dispute settlement panel on February 2, 1998. Presently this dispute is pending before a panel.

Japan Market Access Barriers to Agricultural Products (301-112)

On October 7, 1997, the USTR self-initiated an investigation with respect to certain acts, policies and practices concerning Japan's prohibition on imports of certain U.S. agricultural products. Japan requires that established quarantine treatments for an agricultural product be retested each time a country wishes to export additional varieties of that product. For example, even though the U.S. demonstrated that a quarantine treatment successfully killed pests on red and golden delicious apples, Japan required the United States to retest that same quarantine treatment when the U.S. sought to export additional apple varieties. Until retesting has been completed, no exports of the additional varieties are permitted. The United States alleged that these practices are inconsistent with certain provisions of the WTO Agreements on the Application of Sanitary and Phtosanitary Measures. A WTO panel was established on November 18, 1997, and on October 27, 1998, the panel determined that Japan's testing requirement is not supported by scientific evidence and is non-transparent. The WTO Appellate Body upheld this result and expanded the scope of its product coverage on February 22, 1999.

Canada - Practices Affecting Periodicals (301-102)

On March 11, 1996, the USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of Canada that restrict, prohibit and discriminate against imports of certain periodicals into Canada. In a report circulated on March 14, 1997, a WTO panel found that the following three Canadian measures violated Canada's obligations under the GATT: (1) Canada's import ban on certain periodicals; (2) Canada's 80 percent excise tax on so-called "split-run" periodicals, and (3) Canada's discriminatory "commercial" postal rates. On June 30, 1997, the Appellate Body affirmed the above panel findings and in addition, found that a fourth Canadian measure -- Canada's discriminatory "funded" postal rates -- was also inconsistent with Canada's GATT obligations.

On September 11, 1997, based on the results of the WTO dispute settlement proceedings, the USTR determined that Canada's practices violate its obligations under the GATT 1994. The USTR further determined that Canada's commitment to comply with the WTO panel and Appellate Body reports within a reasonable period of time constituted the taking of satisfactory measures to grant the rights of the United States under the GATT 1994 and committed to monitor Canada's implementation of the reports pursuant to section 306 of the Trade Act. The reasonable period of time for Canada's implementation of the reports expired on October 30, 1998. Prior to this deadline, Canada repealed its longstanding ban on split-run imports, discontinued the 1995 special excise tax on split-runs, eliminated the discrimination in its postal rates, and modified its postal subsidy program for magazines. At the same time, however, Canada introduced Bill C-55, which is designed to accomplish the same result as the import ban and excise tax -- keeping U.S.-and other foreign-produced split run magazines from competing fairly in the Canadian market. In response, the USTR has called on the Canadian Government to refrain from enacting C-55 and is prepared to negotiate a solution that creates an open and fair market for U.S. magazines in Canada. If Bill C-55 is enacted, however, the

Administration has indicated it will respond by denying U.S. trade benefits of an equivalent commercial effect. See section on Western Hemisphere - Canada in Chapter VII for further information.

India - Patent Protection for Pharmaceuticals and Agricultural Chemicals (301-106)

On July 2, 1996, USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of India that result in the denial of patents and exclusive marketing rights to U.S. individuals and firms involved in the development of innovative pharmaceutical and agricultural chemical products. Pursuant to a U.S. request, a WTO dispute settlement panel was formed on November 20, 1996. On September 5, 1997, the panel found that India must establish a TRIPs-consistent filing system and provide exclusive marketing rights, and agreed with the U.S. arguments that India for pharmaceuticals and agricultural chemical products had not yet done so. On December 19, 1997, the WTO Appellate Body affirmed the panel's findings on these points. Subsequently, the panel and Appellate Body reports were adopted on January 16, 1998, and India agreed to comply with the determined rulings and recommendations by April 19, 1999.

Australia - Subsidies on Leather (301-107)

On August 19, 1996, the Coalition Against Australian Leather Subsidies filed a petition alleging that certain subsidy programs of the Government of Australia constitute acts, policies, and practices that violate, are inconsistent with or otherwise deny benefits to the United States under the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement). On October 3, 1996, the USTR initiated in investigation of the Australian subsidy practices under Section 301, and WTO consultations were held on October 31, 1996. On November 25, 1996, Australia agreed to excise automotive leather from its ICS and its Export Facilitation Scheme by April 1, 1997. Subsequently, however, Australia decided to provide a new package of subsidies to the sole Australian exporter of automotive leather. On October 1, 1997, Ambassador Barshefsky announced that the United States would invoke WTO dispute settlement procedures to challenge the new subsidies package under the SCM Agreement. The United States requested WTO consultations on the new Australian measures on November 10, 1997 and May 4, 1998. On June 22, 1998, a WTO dispute settlement panel was established under the expedited procedures of the SCM Agreement. Presently this dispute is pending before a panel.

Argentina - Specific Duties (301-108)

On October 4, 1996, the USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of Argentina concerning the imposition of (1) specific duties on apparel, textiles, and footwear; (2) a discriminatory statistical tax; and (3) a burdensome labeling requirement on apparel and textiles. The United States also requested formal WTO consultations. Through consultations, the parties resolved their differences on the labelling requirement. On February 25, 1997, however, a WTO dispute settlement panel was established to resolve the United States' remaining complaints. In its report, circulated November 25, 1997, the panel found that the specific duties on textiles and apparel violated Argentina's tariff bindings under GATT Article II, and that the statistical tax violated GATT Article VIII. Argentina appealed the panel's findings and the Appellate Body affirmed the determination in a report circulated on March 27, 1998. By October 1998 Argentina had implemented the panel and Appellate Body recommendations in most aspects. The one remaining provision, capping the maximum changes imposed under the statistical tax, will be implemented no later than May 30, 1999.

With respect to Argentina's specific duties on footwear, the panel never reviewed the measure because Argentina had revoked those duties prior to establishment of the Panel. Instead, Argentina replaced the specific duties with a safeguard measure pursuant to the Agreement on Safeguards. The footwear safeguard is under review by a WTO panel, and the United States has played an active role as a third party participant in the proceedings. A final determination is expected on May 27, 1999. Recently, Argentina modified the footwear safeguard measure. The USTR currently is reviewing the Argentine safeguard modification and its modification and its consistency with Argentina's WTO obligations.

Indonesia - Promotion of the Motor Vehicle Sector (301-109)

On October 8, 1996, the USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of Indonesia concerning the grant of conditional tax and tariff benefits intended to develop a motor vehicle sector in Indonesia. In particular, the investigation examined the consistency of Indonesia's practices with provisions of GATT 1994 and the TRIMs, TRIPs and SCM Agreements. Extensive WTO consultations were held on these practices. On July 30, 1997, a WTO dispute settlement panel was established in response to a U.S. request and consolidated with a panel previously established to consider similar EU and Japanese complaints. On April 22, 1998, the panel found that Indonesia had indeed violated its WTO obligations. Indonesia then accepted the panel's findings and recommendations, and agreed to comply by July 22, 1999.

Brazil - Practices Regarding Trade and Investment in the Auto Sector (301-110)

On October 11, 1996, the USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of Brazil concerning the grant of tariff-reduction benefits contingent on satisfying certain export performance and domestic content requirements. The USTR delayed requesting formal WTO consultations, required under Section 303(a) of the Trade Act, for 90 days to allow for bilateral negotiations. Following the 90 day period, on January 10, 1997, the United States requested WTO consultations with Brazil concerning its new auto incentive programs. On March 16, 1998, settlement between the parties were reached, whereby Brazil agreed to rectify its WTO-inconsistent measures.

EC - Importation, Sale, and Distribution of Bananas (301-100a)

On September 27, 1995, the USTR initiated an investigation regarding the EC's regime for the importation, sale, and distribution of bananas. This investigation specifically concerned EC Council Regulation No. 404/93 and related measures distorting international banana trade and discriminating against U.S. marketing companies importing bananas from Latin America. A WTO dispute settlement panel was established on May 8, 1996, to handle the case. Both the panel and the Appellate Body found the EC banana regime in violation of the General Agreement on Tariffs and Trade 1994 (GATT) and the General Agreement on Trade in Services (GATS). On September 25, 1997, the DSB adopted the report of the panel, as modified by the Appellate Body. A WTO-appointed arbitrator subsequently determined that the "reasonable period of time" for the EC to implement the DSB recommendations and rulings would expire by January 1, 1999.

Based on the results of the WTO dispute settlement proceedings, the USTR on February 10, 1998 determined that the certain acts, policies and practices of the EC violate, or otherwise deny benefits to which the United States is entitled under the GATT and GATS. The USTR further determined that the EC's undertaking to implement all of the recommendations and rulings of the WTO reports within the reasonable period of time

constituted the taking of satisfactory measures to grant the rights of the United States under the GATT and the GATS, terminated the investigation without taking action, and committed to monitor the EC's implementation of the DSB recommendations under section 306 of the Trade Act. On July 20, 1998, the EC Council of Agriculture Ministers formally approved amendments to the banana regime and on July 28, those amendments were published in the EC *Official Journal* (EC 1637/98; "Regulation 1637"). On October 31, 1998, the European Commission published additional implementing provisions concerning the administration of import licenses for bananas (EC 2362/98; "Regulation 2362"). Regulations 1637 and 2362 became effective on January 1, 1999. These regulations perpetuate discriminatory aspects of the EC banana regime that were identified in the DSB's recommendations and rulings as inconsistent with WTO agreements. Regulations 1637 and 2362 perpetuate the discriminatory aspects of the EC banana regime that were identified in the DSB's recommendations and rulings as inconsistent with WTO agreements.

On January 14, 1999, the USTR requested authorization from the WTO to suspend tariff concessions on certain products of the EU. The EC requested WTO arbitration on the amount of the U.S. proposed suspension of concessions, which the U.S. had estimated at US$520 million. Presently this issue is pending before the arbitrators.

Super 301

On March 3, 1994, the President signed Executive Order 12901 re-instituting for calendar years 1994 and 1995 the "Super 301" provisions of the Omnibus Trade and Competitiveness Act of 1988. On September 27, 1995, the President amended Executive Order 12901 to extend it to calendar years 1996 and 1997. The executive orders required the USTR: to review U.S. trade expansion priorities; to identify those priority foreign country practices, the elimination of which is likely to have the most significant potential to increase U.S. exports; to report to Congress; and to initiate Section 301 investigations on any priority foreign country practices that were identified in, but not resolved within 21 days of the issuance of, the report.

On January 26, 1999, the USTR announced President Clinton's decision to re-institute Super 301, which had expired in 1997. In comparison to the "old" Super 301, the "new" Super 301 will: (1) move the deadline for the Super 301 report from September 30 to April 30 so that the report is issued in close proximity to the National Trade Estimate Report and at the same time as the Special 301 report; and (2) require Section 301 investigations to be initiated 90 days after the identification of a priority foreign country practice (rather than the current 21 days) in order to allow more time for negotiated solutions.

The USTR did not issue a Super 301 Report in 1998 given that the authority provided by Executive Order 12901 had expired. The USTR terminated the one outstanding Super 301 investigation regarding Korean barriers to motor vehicles after the successful completion of a bilateral agreement addressing the U.S. concerns. In the October 1, 1997 Super 301 report to the Congress, the USTR identified Korean barriers to motor vehicles as a priority foreign country practice. Specific Korean practices of concern that were cited included an array of cumulative tariff and tax disincentives disproportionately affecting imports, onerous and costly auto standards and certification procedures, auto financing restrictions, and a cumulative climate of bias against imported vehicles. On October 20, 1997, the USTR initiated a Section 301 investigation with respect to certain acts, policies and practices of the Government of the Republic of Korea that pose barriers to imports of U.S. autos into the Korean market. After intense bilateral negotiations, the U.S. and Korea initialed a Memorandum of Understanding (MOU) Regarding Foreign Motor Vehicles on October 20, 1998, to improve market access for foreign motor vehicles. Following the negotiation of this MOU,

the USTR determined that certain acts, policies and practices of the Government of Korea related to exports of U.S. motor vehicles are unreasonable and discriminatory and burden or restrict U.S. commerce, but recognized that the Korean government had agreed to take several measures to resolve the matters under investigation. Thus, the USTR decided on October 20, 1998, to terminate the investigation and to monitor the Korean government's implementation of these measures to eliminate those trade practices. The first formal review of Korea's implementation of the 1998 MOU will take place no later than April 30, 1999.

Special 301

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreement Act of 1994, under Special 301 provisions, USTR must identify those countries that deny adequate and effective protection for intellectual property rights (IPR) or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on the relevant U.S. products must be designated as "Priority Foreign Countries" (PFC).

Priority foreign countries are potentially subject to an investigation under the Section 301 provisions of the Trade Act. USTR may not designate a country as a priority foreign country if it is entering into good faith negotiations or making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR.

USTR must decide whether to identify countries each year within 30 days after issuance of the National Trade Estimate Report. In addition, USTR may identify a trading partner as a Priority Foreign Country or remove such identification whenever warranted.

USTR has created a "Priority Watch List" and "Watch List" under Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection or enforcement or market access for persons relying on intellectual property. Countries placed on the priority watch list are the focus of increased bilateral attention concerning the problem areas.

Special 301 Review Announcements

On January 16, 1998, Ambassador Barshefsky announced out-of-cycle review decisions with respect to Paraguay, Bulgaria, Turkey, Brazil, Hong Kong and Ecuador. Paraguay was identified as a Priority Foreign Country because of its failure to take effective action against alarming levels of piracy and counterfeiting and failure to implement adequate and effective intellectual property laws. In announcing this decision, Ambassador Barshefsky noted that a section 301 investigation would be initiated within 30 days and the failure by the Government of Paraguay to address U.S. concerns prior to the close of the investigation could lead to the imposition of unilateral trade sanctions. With respect to the situation in Bulgaria, Ambassador Barshefsky stated that, "should Bulgaria fail to make substantial progress toward combating the piracy of CDs and software compilations on CD-ROMs, it will be identified as a Priority Foreign Country as early as April 1998." Ecuador and Turkey were maintained on the Priority Watch List. However, it was announced that the United States will not consider requests to augment Turkey's benefits under the Generalized System of Preferences until long-sought improvements are made in Turkey's intellectual property laws and enforcement. Brazil and Hong Kong were maintained on the Watch List.

On April 30, 1998, USTR announced the results of the Special 301 annual review. USTR identified 47 trading partners that deny adequate and effective protection of intellectual property or deny fair and equitable market access to U.S. persons that rely

upon intellectual property protection. Also announced was the monitoring of China's compliance with the 1996 bilateral intellectual property agreement under section 306 of the Trade Act. Of the 47, Paraguay remained a Priority Foreign Country (PFC), 15 trading partners were placed on the Priority Watch List, and 31 on the Watch List. Five of these 47 were named for out-of-cycle reviews: Bulgaria, Hong Kong, Colombia, Jordan, and Vietnam. USTR also noted growing concerns or highlighted developments and expectations for progress in 17 countries that were not named to the Watch List or Priority Watch List. Brazil was removed from all 301 lists. Finally, USTR used the Special 301 announcement to report the initiation of WTO Dispute Settlement procedures against Greece and the European Union.

As a result of New Zealand's decision to eliminate parallel import protection for copyrighted works, on May 26, 1998**,** USTR announced the immediate initiation of an out-of-cycle review of the adequacy and effectiveness of New Zealand's intellectual property regime.

In August 1998**,** the USTR announced that the 301 investigation against Paraguay would be extended until November in order to continue negotiations with the newly-elected Paraguayan Administration. During these negotiations, the Government of Paraguay indicated that it had undertaken a number of actions to improve IPR protection, such as passing new copyright and trademark laws and undertaking efforts to improve enforcement. In November 1998, USTR concluded its investigation of the policies and practices of the Government of Paraguay concerning the protection and enforcement of IPR. The USTR determined that Paraguay's acts, policies and practices regarding intellectual property rights are unreasonable and burden or restrict U.S. commerce; however, the USTR also determined not to take further action in response in light of Paraguay's commitments in a Memorandum of Understanding (MOU), signed on November 17, 1998. The U.S. Government is currently monitoring Paraguay's implementation of the MOU and will continue to do so in 1999, particularly as the "Special Enforcement Period" closes in March 1999.

In September, USTR reviewed the protection of intellectual property in Bulgaria. As the result of this review Bulgaria was removed from the Priority Watch List and placed on the Watch List. In December, USTR initiated reviews of Hong Kong, Colombia, Jordan, and Vietnam.

New Initiatives

On October 19, in a speech in Brussels, Belgium, Ambassador Barshefsky set out three top priorities for the Administration with respect to the protection of intellectual property rights. One, ensuring full implementation of the WTO TRIPS Agreement, while finding ways to improve it in the future. Two, addressing pirate production and distribution of optical media like CDs, Video CDs, digital videodiscs and CD-ROMs, including through the use of new tools like licensing for optical disc manufacturing facilities and import/export licensing for manufacturing equipment. And three, more effectively protecting computer software, especially through blocking the use of unlicenced software by government entities. Earlier in October, Vice President Al Gore had announced the issuance of a new Executive Order directing U.S. Government agencies to maintain appropriate, effective procedures to ensure legitimate use of software. The Vice President also called on USTR to utilize this Executive Order to undertake an initiative over the next 12 months to work with other governments, particularly those in need of modernizing their software management systems or where concerns have been expressed about inappropriate government use.

USTR will focus special attention the progress countries have made toward addressing these three issues in the 1999 Special 301 annual review.

Telecommunications

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires the USTR to review, by March 31 of each year, the operation and effectiveness of U.S. telecommunications trade agreements.

The purpose of the Section 1377 review is to determine whether any act, policy, or practice of the foreign country that has entered into a telecommunications-related agreement with the United States (1) is not in compliance with the terms of the agreement; or (2) otherwise denies, within the context of the agreement, mutually advantageous market opportunities to telecommunications products and services of U.S. firms in that country. An affirmative determination under Section 1377 must be treated as an affirmative determination of a violation of a trade agreement under Section 304(a)(1)(A) of the Trade Act of 1974.

The 1998 review, which was completed on March 31, 1998, focused on implementation of bilateral and WTO commitments by Taiwan, Canada, Japan and Mexico. In each case the United States earned new agreements or important satisfaction of U.S. industry concerns.

With respect to Taiwan, U.S. carriers requested a review of Taiwan's compliance with a 1996 agreement on wireless services. They noted that interconnection rates charged by the dominant carrier Chunghwa Telecommunications Co. (CHT) were significantly above cost and posed a major competitive impediment in the wireless services market, These rates appeared inconsistent with the terms of the 1996 agreement, which mandated cost-based interconnection rates. Based on this complaint, USTR negotiated an agreement, concluded on February 20, 1998, which required CHT to reduce its interconnection rates by almost 30 percent in 1998, and to ensure that these rates are completely cost-based by 2001.

Canada's implementation of WTO commitments were singled out for review. As a result, the Canadian Radio-television and Telecommunications Commission (CRTC) ended a Canadian restriction that had prevented U.S.-based carriers from enjoying the same opportunities for transmitting international traffic to and from Canada as enjoyed by carriers in other countries. The United States specified the WTO violation in comments before the Canadian regulatory proceeding that eliminated the restriction on October 1, 1998.

As part of the First Joint Status Report on the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy agreed at the Birmingham G-7 Summit in May, Japan committed to enact legislation in Spring 2000 that would implement long-run incremental cost methodology (LRIC) for determining interconnection rates. The United States will closely monitor implementation of this commitment, which includes a pledge by Japan to institute interim reductions in interconnection rates.

Section 1377 consultations with Mexico immediately preceded a November 30, 1998 decision by the Mexican regulator, Cofetel, to lower interconnection rates and end a surcharge on inbound international calls. Also at that time, six competitors to the dominant Mexican carrier, Telmex, protested to Cofetel its regulations forbidding International Simple Resale (ISR) and other forms of unlimited cross-border competition. Only Telmex has opposed a free market for cross-border services. Cofetel has indicated it will consider the competitive carriers' proposal as part of a scheduled review of cross-border service regulations during 1999. The Section 1377 investigation will continue, in order to monitor the Cofetel review process to assure compliance with Mexico's WTO commitments on cross-border and resale services.

Government Procurement

Title VII of the 1988 Omnibus Trade and Competitiveness Act, which expired on April 30,

1996, required the U.S. Trade Representative, through authority delegated by the President, to identify foreign countries that are signatories to the WTO Government Procurement Agreement (GPA) and are in violation of their GPA obligations. USTR was also required to identify GPA signatories that met the statutory criteria for identification in areas not covered by the GPA, as well as non-signatories that met these criteria in any area of procurement. Those criteria were: (1) a significant and persistent pattern or practice of discrimination in government procurement against United States goods and services; (2) identifiable harm to U.S. businesses; and (3) significant purchases by the United States Government of goods or services from that country. Finally, Title VII required identification of countries that are not signatories to the GPA and fail to apply transparent and competitive procurement procedures or to maintain and enforce effective prohibitions on bribery.

Title VII provided for consultations with countries whose practices were identified as discriminatory, and for appropriate Presidential action with regard to such countries if discrimination were not addressed within specified time frames. Title VII required initiation of dispute settlement procedures established by the GPA for apparent violations of the GPA. With respect to discrimination in procurement not covered by the GPA, Title VII authorized the imposition of procurement sanctions.

From 1991-1996, the Office of the United States Trade Representative conducted six annual reviews under Title VII. On April 30, 1996, Title VII expired pursuant to a sunset provision, except with respect to identifications made on or before that date. Accordingly, no review was conducted in 1997.

Two Title VII determinations remain outstanding. In 1993, Title VII sanctions were imposed against the EU and its Member States for discrimination against U.S. telecommunications products. Those sanctions remain in place today.

In April1996, the United States Trade Representative identified Germany for a "significant pattern or practice of discrimination" in the heavy electrical equipment sector. The identification was based on irregularities in the procurement process for two separate steam turbine generator projects in Germany. In particular, the Title VII Report noted a "pervasive institutional problem" with respect to Germany's implementation of a remedies system for challenging procurement decisions. Following a 60-day period of consultation provided for in the statute, the USTR formally identified Germany on July 1, but suspended imposition of sanctions until September 30 due to progress made in the consultations.

In 1996, USTR announced that the German Cabinet had decided to propose legislation to reform the German procurement system. As a result, USTR suspended imposition of sanctions pending implementation of the legislation. In May 1998, the German parliament passed legislation requiring significant reforms in the German procurement system, including with respect to bid challenge procedures. That legislation was signed and entered into effect on January 1, 1999. The Administration has advised the German government that it will continue to monitor implementation of the new law to ensure that it results in the necessary practical improvements in the German procurement system. On that basis, USTR will review the 1996 Title VII determination.

Antidumping Actions

Under the antidumping (AD) law, remedial duties are imposed on imported merchandise when the Department of Commerce (Commerce) determines that the merchandise is being dumped (sold at "less than fair value" (LTFV)) and the U.S. International Trade Commission (USITC) determines that there is material injury or threat of material injury to the domestic industry, or material retardation of the establishment of an industry, "by reason of" those

imports. The AD law's provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the l979 Trade Act, the 1984 Trade Act, the 1988 Trade Act, and the 1994 Uruguay Round Agreements Act (URAA).

An antidumping investigation starts when a U.S. industry, or a representative filing on its behalf, submits a petition alleging with respect to certain imports the dumping and injury elements described above. If the petition meets the minium evidentiary requirement, Commerce initiates an antidumping investigation. Commerce may also initiate an investigation on its own motion.

After initiation, the USITC decides, within 45 days of the filing of the petition, whether there is a "reasonable indication" of material injury or threat of material injury to a domestic industry, or material retardation of an industry's establishment, "by reason of" the LTFV imports. If this preliminary determination by the USITC is negative, the investigation is terminated; if it is affirmative, the case shifts back to Commerce for preliminary and final inquiries into the alleged LTFV sales into the U.S. market. If Commerce's preliminary determination is affirmative, Commerce will direct U.S. Customs to suspend liquidation of entries and require importers to post a bond equal to the estimated weighted average dumping margin.

If Commerce's final determination of LTFV sales is negative, the investigation is terminated. If affirmative, the USITC makes a final injury determination. If the USITC determines that there is material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the LTFV imports, an antidumping order is issued. If the USITC's final injury determination is negative, the investigation is terminated and the Customs bonds released.

Upon request of an interested party, Commerce conducts annual reviews of dumping margins and subsidy rates pursuant to Section 751 of the Tariff Act of 1930. Section 751 also provides for Commerce and the USITC review in cases of changed circumstances and periodic review in conformity with the five-year "sunset" provisions of the U.S. Antidumping law and the WTO Agreement on Antidumping..

Most antidumping determinations may be appealed to the U.S. Court of International Trade, with further judicial review possible in the U.S. Court of Appeals for the Federal Circuit. For certain investigations involving Canadian or Mexican merchandise, appeals may be made to a binational panel established under the terms of the NAFTA.

The numbers of antidumping investigations initiated in and since 1986 are as follows: 83 in 1986; 16 in 1987; 42 in 1988; 24 in 1989; 35 in 1990; 66 in 1991; 84 in 1992; 37 in 1993; 51 in 1994; 14 in 1995; 21 in 1996; 15 in 1997; and 36 in 1998. The numbers of antidumping orders (not including suspension agreements) imposed in and since 1986 are: 26 in 1986; 53 in 1987; 12 in 1988; 24 in 1989; 14 in 1990; 19 in 1991; 16 in 1992; 42 in 1993; 16 in 1994; 24 in 1995; 9 in 1996; 7 in 1997; and 9 in 1998.

Countervailing Duty Actions

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDs on subsidized sugar imports. The current CVD provisions are contained in Title VII of the Tariff Act of 1930. As with the antidumping law, the USITC and the Department of Commerce jointly administer the CVD law. In November 1998, the Department of Commerce issued final regulations governing its CVD methodologies and practices in order to implement changes resulting from the Uruguay Round negotiations and the Uruguay Round Agreements Act of 1994.

The CVD law's purpose is to offset certain foreign government subsidies benefitting imports into the United States. CVD procedures under Title VII are very similar to antidumping procedures. Commerce normally initiates investigations based upon a petition

submitted by an interested party. The USITC is responsible for investigating material injury issues. The USITC must make a preliminary finding of a reasonable indication of material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the imports subject to investigation. If the USITC's preliminary determination is negative, the investigation terminates; otherwise Commerce issues preliminary and final determinations on subsidization. If Commerce's final determination of subsidization is affirmative, the USITC proceeds with its final injury determination.

The numbers of CVD investigations initiated in and since 1986 are: 28 in 1986; 8 in 1987; 17 in 1988; 7 in 1989; 7 in 1990; 11 in 1991; 22 in 1992; 5 in 1993; 7 in 1994; 2 in 1995; 1 in 1996; 6 in 1997; and 11 in 1998. The numbers of CVD orders imposed in and since 1986 are: 13 in 1986; 14 in 1987; 7 in 1988; 6 in 1989; 2 in 1990; 2 in 1991; 4 in 1992; 16 in 1993; 1 in 1994; 2 in 1995; 2 in 1996; 0 in 1997; and 1 in 1998.

Unfair Trade Practices (Section 337)

Section 337 of the Tariff Act of 1930 makes it unlawful to engage in unfair acts or unfair methods of competition in the importation or sale of imported goods. Most Section 337 investigations concern alleged IPR infringement, usually involving U.S. patents.

The USITC conducts Section 337 investigations through adjudicatory proceedings under the Administrative Procedure Act. The proceedings normally involve trial-type proceedings before a USITC administrative law judge. If the USITC finds a violation, it can order unfairly traded goods excluded from the United States and/or issue cease and desist orders requiring firms to stop unlawful conduct in the United States, such as the sale or other distribution of imported goods in the United States. Many Section 337 investigations are terminated after the parties reach settlement agreements or agree to the entry of consent orders.

In cases in which the USITC finds a violation of Section 337, it must decide whether certain public interest factors nevertheless preclude the issuance of a remedial order. Such public interest considerations include an order's effect on the public health and welfare, U.S. consumers, and the production of similar U.S. products.

If the USITC issues a remedial order, it transmits the order, determination, and supporting documentation to the President for policy review. Importation of the subject goods may continue during this review process, if the importer pays a bond set by the USITC. If the President takes no negative action within 60 days, the USITC's order becomes final. Section 337 determinations are subject to judicial review in the U.S. Court of Appeals for the Federal Circuit with possible appeal to the U.S. Supreme Court.

The USITC is also authorized to issue temporary exclusion or cease and desist orders prior to completion of an investigation if the USITC determines that there is reason to believe a violation of Section 337 exists.

In 1998, the USITC instituted 11 Section 337 investigations, and one formal enforcement proceeding arising out of a 337 investigation. During the year, the USITC did not issue any exclusion orders covering imports from foreign firms, nor did it issue any cease and desist orders to U.S. firms regarding their use or further sale of imported infringing products. The President permitted one limited exclusion order and one cease and desist order (both of which were issued by the USITC in 1997) to become final without presidential action in 1998.

Safeguard Actions (Section 201)

Section 201 of the 1974 Trade Act provides a procedure whereby the President may grant temporary import relief to a domestic industry seriously injured by increased imports. Relief may

be granted for an initial period of up to four years, with the possibility of extending the action to a maximum of eight years. Import relief is designed to redress the injury and to facilitate positive adjustment by the domestic industry, and may consist of increased tariffs, quantitative restrictions, or other forms of relief. Section 201 also provides for the granting by the President of provisional relief in cases involving "critical circumstances" or certain perishable agricultural products.

For an industry to obtain relief under Section 201, the USITC must determine that imports are entering the United States in such increased quantities as to be a substantial cause (not less than any other cause) of serious injury, or the threat thereof, to a U.S. industry producing a like or directly competitive product. Criteria for import relief set forth in Section 201 are based on Article XIX of the GATT, the so-called "escape clause," and the World Trade Organization Agreement on Safeguards. In cases in which the USITC reaches an affirmative injury determination, it may recommend to the President a particular form of relief.

In 1997, one Section 201 petition was filed on behalf of the wheat gluten industry. The USITC made an affirmative determination that increased imports of wheat gluten were a substantial cause of serious injury to the domestic industry. In response, the President imposed quantitative restrictions on imports of wheat gluten from most countries (excluding Canada, Mexico, Israel, CBI and Andean Trade Preference beneficiaries) for a period of three years and one day. Absent an extension of the measure, the safeguard will expire June 1, 2001. In 1998, the USITC instituted one Section 201 investigation on the basis of a petition filed on October 7, 1998, on behalf of the lamb meat industry. On February 9, 1999, the USITC voted 6-0 in favor of a finding that increased imports of lamb meat are a substantial cause of threat of serious injury to the domestic industry. On December 3, 1998, the President issued a proclamation terminating safeguard duties on imports of broom corn brooms after receiving a report from the USITC, and advice from the Secretaries of Labor and Commerce, indicating that the industry was not making a positive adjustment to import competition. On December 30, 1998, U.S. producers of carbon and alloy wire rod, and the United Steel Workers of America, filed a petition seeking relief under Section 201.

Trade Adjustment for Workers

The Trade Adjustment Assistance (TAA) program provides worker assistance through Title II of the 1974 Trade Act. Assistance includes trade adjustment allowances, training, job search and relocation allowances, plus reemployment services for workers adversely affected by increased imports. Initially authorized by the Trade Expansion Act of 1962, the program is scheduled to expire on September 30, 1998.

For workers to be certified as eligible to apply for TAA, the Secretary of Labor must determine that workers in a firm have become or are threatened to become totally or partially separated; that the firm's sales or production have decreased absolutely; and that increases in like or directly competitive imported products contributed importantly to the total or partial separation, and to the decline in the firm's sales or production.

The U.S. Department of Labor administers adjustment assistance to workers through the Employment and Training Administration (ETA). Workers certified for trade adjustment assistance are provided a certification of eligibility and may apply for TAA benefits at the nearest office of the State Employment Security Agency. The amendments require eligible workers to have completed training or be enrolled in training as a condition for receiving trade readjustment allowances. This requirement may be waived by the State if training is not feasible or not appropriate.

Fact-finding investigations were newly instituted for 1,400 petitions in fiscal year FY 1998, a slight increase from 1,318 petitions in FY 1997. In FY 1998, 857 petitions were certified or partially certified covering 96,868 workers, whereas 502

petitions covering 51,018 workers were denied or terminated. In FY 1997, 878 petitions were certified or partially certified, covering 109,313 workers, whereas 495 petitions, covering 154,127 workers, were denied or terminated.

There was a sharp decrease in the number of workers applying for such benefits from 31,606 new recipients in FY 1997 to 20,474 recipients in FY 1998. Expenditures for FY 1998 decreased to $151.0 million, a 19.5 percent decrease from the $187.6 million figure in FY 1997. The Department of Labor also provided training, job search, and relocation allowances preliminarily valued at $96.7 million in FY 1998, a 13.6 percent increase from the $85.1 million allocated during FY 1997. However, the numbers of workers utilizing these services also decreased from 23,887 workers in to 18,832 workers FY 1998.

NAFTA Transitional Assistance to Workers

The NAFTA Implementation Act established the Transitional Adjustment Assistance program (NAFTA-TAA). That program, which began operation January 1, 1994, provides training, job search, and relocation assistance to workers in companies affected by imports from Canada or Mexico or by shifts of U.S. production to those countries. For FY 1998, 809 petitions were filed for assistance under the NAFTA-TAA program compared to 784 such filings in FY 1997. There were 445 completed certifications in FY 1998, covering 53,301 workers.

Preliminary FY 1998 figures show that there were 2,545 new recipients of NAFTA-TAA, an increase over the 2,242 workers that entered the program in FY 1997. In addition, there was a sharp increase in the number of workers entering training to 4,021 workers in FY 1998 compared to 2,910 workers in FY 1997. The Department of Labor also provided direct benefits to workers that increased from $13.1 million in FY 1997 to $14.0 million in FY 1998 and expenditures for training, job search, and relocation services increased from $27.6 million in FY 1997 to $29.0 million in FY 1998 under this program.

Trade Adjustment Assistance for Firms and Industries

The Planning and Development Assistance Division in the Department of Commerce's Economic Development Administration (EDA) administers the Trade Adjustment Assistance (TAA) program for firms and industries. This program is authorized by Title II, Chapter 3, of the Trade Act of 1974, as amended, through June 30, 1999. EDA intends to seek a multi-year reauthorization of the program.

To be certified as eligible to apply for TAA, a firm must show that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in its sales, production, or both, and to the separation or threat of separation of a significant portion of the firm's workers. Following certification, a firm may apply for technical assistance to develop and implement its economic recovery strategy. The TAA program may provide assistance to specific industries adversely impacted by import competition. However, no industry projects have been approved in recent years.

Under the TAA program, EDA funds a network of 12 Trade Adjustment Assistance Centers (TAACs). These TAACs are sponsored by nonprofit organizations, institutions of higher education, and a state agency. In FY 1998, the EDA provided $11 million in funding to the TAACs. That amount included $1.5 million in defense adjustment funding that is used to assist trade impacted firms that are also located in areas that are also impacted by defense downsizing. A TAAC will assist a firm in completing its petition for certification of eligibility. In FY 1998, EDA certified 167 firms under the TAA program.

Once EDA certifies the firm, the TAAC will

provide professional assistance to the firm in assessing its competitive situation and in developing its adjustment strategy. The adjustment proposal must show that the firm is aware of its strengths and weaknesses and has a clear and rational strategy for recovery from the import impact. All adjustment proposals submitted by certified firms are reviewed by EDA's Adjustment Proposal Review Committee (APRC) for final approval. During FY 1998 the APRC received 134 adjustment proposals and approved 127 of them.

After the adjustment proposal is approved by the APRC, the firm may request technical assistance from the TAAC to implement its strategy. Using funds provided by the TAA program, the TAAC will contract with consultants to provide the technical assistance tasks identified in the firm's strategy. The firm must typically pay 50 percent of the cost of each consultant contract. However, the maximum amount of technical assistance available to a firm under the TAA program is $75,000. Common types of technical assistance requested by firms include the development of marketing materials, identification of new products that the firm could produce, ISO 9000 certification, and identification of appropriate management information systems.

In November 1998, the Urban Institute issued a report evaluating the TAA program. The report compared the growth in sales and earnings for two groups that had been certified as eligible for assistance under the program. One group had received implementation assistance under the program and the other had not. The study examined the status of firms five years after certification. The Urban Institute found that firms assisted under the TAA program had survived at higher rates than unassisted companies (83.8 percent to 70.7 percent), had added rather than lost employees (4.2 percent gain on average versus a 5.3 percent loss), and enjoyed a stronger growth in sales (33.9 percent versus 16.2 percent). The Urban Institute also calculated the net benefits that are plausibly linked to the TAA program and concluded that the technical assistance provided under the program helped to support one job for every $3,451 invested and to generate $87 in sales for each dollar invested in technical assistance.

International Textile Agreement

The Agreement on Textiles and Clothing (ATC) succeeded the Multifiber Arrangement (MFA) as an interim arrangement establishing special rules for trade in textile and apparel products on January 1, 1995. All members of the WTO are subject to the disciplines of the ATC, whether or not they were signatories to the MFA, and only members of the WTO are entitled to the benefits of the ATC. The ATC is a ten-year, time-limited arrangement which provides for the gradual "integration" of the textile and clothing sector into the WTO Agreements, and the gradual and orderly phase-out of the special quantitative arrangements that have regulated trade in the sector among the major exporting and importing nations.

The Textiles Monitoring Body (TMB), established in the Agreement on Textiles and Clothing, supervises the implementation of all aspects of the Agreement. In 1998, TMB membership was composed of appointees from the United States, the EU, Japan, Canada/Norway, Switzerland/Turkey, Brazil, Thailand, Pakistan, India/Egypt, and Hong Kong/Korea. Each TMB member serves in a personal capacity.

Most of the significant exporters of the textiles and apparel products to the United States are members of the WTO. Therefore, quota arrangements on a bilateral basis are governed by the provisions of the ATC.

1998 was an active year in the TMB, with the United States continuing to pursue its interest in enforcement and implementation of the ATC. Of particular note was the special safeguard.

A special three-year safeguard is provided in the ATC to control surges in uncontrolled imports that cause damage of threat thereof to domestic

industry. In 1998, the United States determined that domestic producers of category 603 (artificial staple yarn) had been damaged or threatened with damage as a result of imports from Thailand and issued a request for consultations under the safeguard provisions of Article 6 of the ATC. The TMB reviewed the bilateral agreement reached with Thailand and found the restriction was justified in accordance with the provisions of Article 6 of the ATC. The TMB also reviewed two Article 6 action taken by Colombia on imports of denim fabric and man-made fiber yarn. In both cases, the TMB found that Colombia had not demonstrated serious damage or actual threat thereof, and recommended that Colombia rescind the restraints.

Generalized System of Preferences

The Generalized System of Preferences (GSP) is a program that grants duty-free treatment to specified products that are imported from more than 140 designated developing countries and territories. The program began in 1976, when the United States joined 19 other industrialized countries in granting tariff preferences to promote the economic growth of developing countries through trade expansion. Currently, more than 4,400 products or product categories (defined at the eight-digit level in the Harmonized Tariff Schedule of the United States) are eligible for duty-free entry from countries designated as beneficiaries under GSP. In 1997, an additional 1783 products were made duty free under GSP for countries designated as least developed beneficiary developing countries (LDBDCs).

The premise of GSP is that the creation of trade opportunities for developing countries is an effective, cost-efficient way of encouraging broad-based economic development and a key means of sustaining the momentum behind economic reform and liberalization. In its current form, GSP is designed to integrate developing countries into the international trading system in a manner commensurate with their development. The program achieves these ends by making it easier for exporters from developing economies to compete in the U.S. market with exporters from industrialized nations while at the same time excluding from duty-free treatment under GSP those products determined by the President to be "import sensitive." The value of duty-free imports in 1997 was $15.4 billion.

In addition, the U.S. GSP program works to encourage beneficiaries to eliminate or reduce significant barriers to trade in goods, services, and investment, to afford all workers internationally recognized worker rights, and to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive intellectual property rights.

An important attribute of the U.S. program is its ability to adapt, product by product, to changing market conditions and the changing needs of producers, workers, exporters, importers and consumers. Modifications can be made in the list of articles eligible for duty-free treatment by means of an annual review. The process begins with a Federal Register notice requesting the submission of petitions for modifications in the list of eligible articles. Those that are accepted are made subjects of public hearings, preparation of a U.S. International Trade Commission study of the "probable economic impact" of granting the petition, and a review of all relevant material by the GSP interagency committee. Following completion of the review, the President announces his decisions in the spring on which petitions will be granted.

Although the program was originally authorized for ten years and subsequently reauthorized for eight years, Congress has recently renewed the program for only brief periods of one or two years. The GSP program has lapsed temporarily several times--September 30, 1994; July 31, 1995; May 31, 1997, and June 30, 1998. Each time it was reauthorized after a delay and applied retroactively

to the previous expiration date, thus maintaining the continuity of the program benefits. It is set to expire again on July 1, 1999.

One major change was included in the 1996 reauthorization. Congress authorized the extension of GSP eligibility to an additional 1895 products provided they are imported only from LDBDCs and as such are determined by the Administration not to be import sensitive. The President in 1997 determined that 1783 of the proposed 1895 articles could be made eligible for GSP The intent of this change in the GSP program is to provide exclusive benefits to this class of countries which so far and with few exceptions, have not been major gainers from the program.

The 1997 Annual GSP Product Review was initiated in June 1997. Petitions for modifications in the eligibility status of GSP products were requested and processed. A Presidential Proclamation announced determinations in June 1998. However, due to the temporary suspension of the program, benefits, on a retroactive basis, were not authorized until October 21, 1998. In October 1998 the initiation of the 1998 Annual GSP Product Review was announced. The review is to be completed in the spring of 1999. In addition to the product review, three country practice petitions were received. These involve worker rights in Cambodia and Guatemala and market access for soda ash in India. As of this writing, decisions have not been made on whether to accept any of these petitions for review.

In our continuing effort to stimulate economic development in Africa, the President designated three sub-regional African integration groups to receive the cumulation of rules of origin benefit. These are the West African Economic and Monetary Union, the Southern African Development Community, and the Tripartite Commission of East African Cooperation.